



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

April 25, 2013

SHIRLEY ISBELL, TREASURER  
THE REPUBLICAN PARTY OF FORT BEND  
COUNTY FEDERAL COMMITTEE  
12326 SCOTTSDALE DR  
MEADOWS PLACE, TX 77477

**Response Due Date**  
**05/30/2013**

IDENTIFICATION NUMBER: C00529628

REFERENCE: 30 DAY POST-GENERAL REPORT (10/18/2012 - 11/26/2012)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 7 item(s):

1. Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Color mailer favoring federal candidates" which is categorized as Federal Election Activity and therefore, may require the disclosure of the candidate(s) this activity should be attributed to. Expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, please be advised that public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate rather than on Schedule B for Line 30(b). Please clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

2. Schedule H3 of your report discloses a transfer(s)-in from "2013 Lincoln

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Reagan Dinner". Please note that 11 CFR §§106.6(e) and 106.7(f) permit a committee to pay the entire amount of an allocable expense from its federal account and transfer from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense. If "2013 Lincoln Reagan Dinner" is not a non-federal account of your committee, such a transfer(s) is prohibited.

If the transfer(s) in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information. If you have received a prohibited transfer(s), you must transfer-out the impermissible funds to an account not used to influence federal elections or refund the full amount to the donor.

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for the transfer-out or refund. In addition, any transfers-out or refunds should be disclosed on Schedule B supporting Line 22 or 28 of the report covering the period during which the transaction was made.

Although the Commission may take further legal action concerning the acceptance of prohibited transfers, prompt action by your committee to transfer-out or refund the amount will be taken into consideration.

**3.** Please amend your report by providing the purpose for each disbursement itemized on Schedule H4 supporting Line 21(a). (11 CFR §§104.3(a)(4) and 104.10(4))

**4.** Schedule H5 of your report discloses a transfer(s) of Levin funds for allocated Federal Election Activity from the "State Non-Admin (Operating) Account." Please clarify whether this account is an account that functions as both a non-federal account and a Levin account or if it was established solely for the receipt of Levin funds for Federal Election Activity. (11 CFR §300.30)

**5.** Schedule H6 of your report discloses a payment(s) for "Voter alert postcard mailing" which appears to meet the definition of Federal Election Activity ("FEA") and may also meet the conditions of exempt party activity as defined under 11 CFR §§100.80, 100.87, 100.89 and 11 CFR §§100.140, 100.147 and 100.149. Please be advised that activity which simultaneously constitutes both exempt activity and FEA must be paid for as an FEA activity.

If this apparent exempt activity represents Get-out-the-vote activity conducted

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in connection with an election in which one or more candidates for Federal office appear on the ballot, it is considered to be Federal Election Activity. If this apparent exempt activity represents Voter Registration activity during the period that begins on the date that is 120 calendar days before the date that a regularly scheduled Federal election is held and ends on the date of the election, it is considered to be Federal Election Activity. (11 CFR §100.24) Further, Levin funds may only be used for these types of FEA if there is no reference to a clearly identified candidate for Federal office. (11 CFR §300.32(b) and (c))

If this apparent exempt activity is a public communication(s) (as defined under 11 CFR §100.26) that refers to a clearly identified candidate for Federal office and promotes, supports, attacks or opposes any candidate for Federal office, it meets the definition of Federal Election Activity under 11 CFR §100.24 and must be paid for with 100% Federal funds and disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate.

It appears that you have allocated the costs for this activity between federal and Levin funds. Any reimbursement from your committee's non federal or Levin account for Federal Election Activity costs referencing a clearly identified candidate for Federal office is not permissible and must be returned. (11 CFR §§300.32 and 300.33)

Please amend your report to clarify if the activity disclosed meets the conditions of exempt party activity and also if it meets the definition of Federal Election Activity. If the activity does not meet the conditions of exempt party activity, please clarify if it contains express advocacy. Further, please inform the Commission of any corrective action immediately and properly disclose this activity, if necessary.

**6.** Schedule H6 supporting Line 30(a) of your report discloses a payment(s) for "Facebook ads-generic." Please be advised that pursuant to 11 CFR §300.33(c) (1), expenditures for public communications (as defined by 11 CFR §100.26) that refer to a clearly identified candidate for Federal office and that promote,

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support, attack or oppose any such candidate for Federal office must not be allocated between or among federal, non-federal and Levin accounts. Only federal funds may be used.

Further, expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s). However, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b). Please clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

If this activity was categorized incorrectly, the Commission recommends that you immediately transfer the funds received by your federal account for this activity back to the non-federal or Levin account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

7. Schedule L-A of your report discloses a receipt(s) from "Olson for Congress Committee" and "Ted Cruz for Senate." Please be advised that Levin funds expended or disbursed by any State, district or local committee must be raised solely by the committee that expends or disburses them. Consequently, funds from national party committees, other State, district and local committees and Federal candidates or officeholders, may not be accepted as Levin funds. Further, a State, district, or local party committee must not use any Federal funds transferred to it from national party committees and other State, district and local committees as the Federal component of an expenditure or disbursement for Federal Election Activity. 11 CFR §§300.31 and 300.34 This includes any entity directly or indirectly established, financed, maintained or controlled by any national, State, district or local committee of a political party. 2 U.S.C. §441i(b)(2)(B)(iv)

If any receipt in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information.

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Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for any transfer out or refund. Transfers out and refunds should be disclosed on Schedule L-B supporting Line 5 on Schedule L of the report during which the transaction was made.

Although the Commission may take further legal action regarding the acceptance of impermissible Levin funds, prompt action by your committee to transfer out or refund the funds, or provide clarifying information will be taken into consideration.

**Please note, you will not receive an additional notice from the Commission on this matter.** Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. **Requests for extensions of time in which to respond will not be considered.**

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1169.

Sincerely,



Kevin Fortkiewicz  
Campaign Finance Analyst  
Reports Analysis Division